

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION**

**CARLTON MCKISSIC,**

**Petitioner,**

**V.**

**Warden SHAWN EMMONS,**

**Respondent.**

**NO. 4:21-cv-00174-CDL-MSH**

**ORDER**

Petitioner Carlton McKissic filed a *pro se* petition for a writ of habeas corpus challenging his conviction in the Superior Court of Muscogee County, Georgia. Pet. for Writ of Habeas Corpus, ECF No. 1. He also filed various other documents setting forth additional claims. *See, e.g.*, Notice of “Grounds,” ECF No. 8; Notice of Supplemental Review, ECF No. 9; Notice of “Response Review Contentions,” ECF No. 11. As a result, the United States Magistrate Judge ordered Petitioner to consolidate all of his claims by filing a recast petition, setting forth each constitutional error or deprivation entitling him to federal habeas corpus relief that he wanted to raise in this action. Order, ECF No. 13. Petitioner did not comply with the order to file a single consolidated petition, and the Magistrate Judge initially entered an order to show cause, Order to Show Cause, ECF No. 26, and then recommended that the petition be dismissed based on Petitioner’s continued failure to follow the Court’s orders. R. & R., ECF No. 32. Petitioner filed objections to the recommendation, Obj., ECF Nos. 36 & 37, and on de novo review, this Court adopted the recommendation and ordered this case dismissed. Order, ECF No. 38; J., ECF No. 39.

Petitioner has now filed a notice of appeal from the dismissal of this case. N.O.A., ECF No. 40. Neither the recommendation of dismissal nor the order adopting the recommendation addressed whether Petitioner was entitled to a certificate of appealability. Thus, that question is addressed herein.

When, as here, “the district court denies a habeas petition on procedural grounds without reaching the prisoner’s underlying constitutional claim,” a certificate of appealability will not be issued unless the prisoner can show, at least, “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. *Slack v. McDaniel*, 529 U.S. 473, 478 (2000). Reasonable jurists could not find that a dismissal of the instant action for Petitioner’s repeated failure to comply with the Court’s orders was debatable or wrong. *See Knox v. Morgan*, 457 F. App’x 777, 779 (10th Cir. 2012) (denying a certificate of appealability where the district court dismissed a habeas petition without prejudice for failing to comply with court orders). Thus, Petitioner is **DENIED** a certificate of appealability. Any motion for leave to appeal *in forma pauperis* will be moot in light of this order. Therefore, Petitioner is also **DENIED** leave to appeal *in forma pauperis*.

**SO ORDERED**, this **12th** day of **May, 2022**.

S/Clay D. Land  
CLAY D. LAND  
U.S. DISTRICT COURT JUDGE  
MIDDLE DISTRICT OF GEORGIA